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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,857	02/03/2004	Raymond N. Laymance	RL 101	3513

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EXAMINER

THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/771,857

Applicant(s)

LAYMANCE, RAYMOND N.

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11, 12 and 15-20 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 13 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no antecedent basis for "said stop member".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-5, 7, 11, 12, 15, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Glenn #3,731,761. Glenn discloses a marine ladder assembly comprised of a support bracket assembly (stop component that limits pivoting movement) 17b, 32, a side rail assembly 19, 34, 39 that is pivotally attached to the support bracket assembly at pivot 31, a portion of which extends vertically at from 31, steps 27 that are connected to the rail assembly by means of pivots 24, 38, and are horizontally oriented when in use, a buoyancy means/float element 13 that is mounted to a lower portion of the assembly, and a ladder use angle of approximately 45 degrees and raised condition angle of 0 degrees, as best seen in Figure 1, the

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raised condition angle positioning portions the ladder assembly parallel and transverse to edges of a support (unnumbered).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-7, 11, 12, 15, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krish, Jr. #5,887,540 in view of Jackson #4,067,412. Krish, Jr. discloses a marine ladder assembly comprised of a support bracket assembly 16, 18, 54, 64, 72, as best seen in Figure 6A, and recited in column 5, lines 5-17, attachable to a platform structure 24, the assembly limiting movement of ladder 12 that extends at a non-vertical angle relative to the platform structure and is locked/fixed to the platform structure through slots 19, horizontal steps 28, 29, a raised condition angle rotatable through an angle of 0 degrees relative to the platform structure, as best seen in Figure 3, the raised condition angle positioning portions the ladder assembly parallel and transverse to edges of the platform structure 24, a pivot mechanism 14, to which ladder side rails 13 are pivotally attached, and the side rails having grooves (unnumbered) therein. Krish, Jr. fails to disclose a buoyancy means for the assembly having a specified downward external force.

Jackson teaches the utility of a buoyancy means 20 that allows the position of a ladder assembly 12, 18 to remain relatively constant with respect to the surface of the water, the

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buoyancy means being sufficiently buoyant to prevent the ladder assembly from sinking to any great extent when a person of normal weight steps thereon, i.e., a downward exerted force of at least two pounds. Therefore, to one of ordinary skill in the art, it would have been obvious to provide the assembly of Krish, Jr., with a buoyancy means as taught by Jackson, so as to provide the assembly with a buoyancy means being sufficiently buoyant to prevent the ladder assembly from sinking to any great extent when a person of normal weight steps thereon, i.e., exerting a downward force of at least two pounds.

Claims 1-8, 11, 12, 15, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritten #4,724,925 in view of Jackson #4,067,412. Ritten discloses a marine ladder assembly 2 attachable to a platform structure 78, the ladder assembly having a support bracket assembly, as best seen in Figure 3, comprised of elements 42, 42b, 44, 46b, which limit movement of ladder to extend at a non-vertical angle relative to the platform structure of at least 45 degrees, the support bracket assembly being locked/fixed to the platform structure by means of fasteners (unnumbered) as best seen in Figures 8 and 10, horizontal steps 18, 24, 22, a raised condition angle rotatable through an angle of 0 degrees relative to the platform structure, as best seen in Figure 1, the raised condition angle positioning portions the ladder assembly parallel and transverse to edges of the platform structure 78, and a pivot assembly 30 (elongated shaft), 34, 36, to which ladder side rails 8, 10, are pivotally attached. Ritten fails to disclose a buoyancy means for the assembly having a specified downward external force.

Jackson teaches the utility of a buoyancy means 20 that allows the position of a ladder assembly 12, 18 to remain relatively constant with respect to the surface of the water, the

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buoyancy means being sufficiently buoyant to prevent the ladder assembly from sinking to any great extent when a person of normal weight steps thereon, i.e., a downward exerted force of at least two pounds. Therefore, to one of ordinary skill in the art, it would have been obvious to provide the assembly of Ritten, with a buoyancy means as taught by Jackson, so as to provide the assembly with a buoyancy means being sufficiently buoyant to prevent the ladder assembly from sinking to any great extent when a person of normal weight steps thereon, i.e., exerting a downward force of at least two pounds.

Claims 1 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritten as advanced above in view of Olsen #5,152,245. Ritten fails to disclose ladder components made of buoyant material. Olsen teaches the utility of a ladder assembly comprised of a series of step bodies 10, 101, 104, 105, the assembly made from closed cell foam to provide for buoyancy of the assembly. Therefore, to one of ordinary skill in the art, it would have been obvious to provide the assembly of Ritten in view of Jackson, with a buoyancy means as taught by Jackson, so as to provide the assembly with a buoyancy means being sufficiently buoyant to prevent the ladder assembly from sinking.

Allowable Subject Matter

Claims 9, 10, 13, and 14, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The primary reason for the allowable subject matter of claim 9 is the inclusion of an elongate stop member carried by the bracket extending generally

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parallel to the pivot shaft. For claim 13, it is the inclusion of the side rails having aligned slots that engage the pivot shaft. For claim 14, it is the inclusion of the stop member being interengagable by lower edges of the side rails. The prior art of record fails to teach or suggest the claimed feature absent the applicant's own disclosure.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gonzalez #3,970,169, Stanescu #4,971,168, Ricci, Jr., #5,950,267, and Dutkiewicz et al #6,598,562 are cited to teach marine ladder assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (703) 305-0102 (571-272-6837 as of 4-7-05). The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II
Primary Examiner
Art Unit 3634

March 24, 2005